

Application No. 10/699,835
Amendment dated June 8, 2007
Reply to Office Action of January 25, 2007

Remarks/Arguments:

This Amendment adds no new claims, and is provided to amend the specification and claims 1 and 7. No new matter has been added. Upon entry of this Amendment, claims 1-13 will be pending.

Specification

The Applicants have amended paragraphs 8 and 13 of the specification to correct typographical errors.

Rejections of the Claims under 35 U.S.C. 112

The Examiner has rejected claims 1 and 7, and dependent claims thereof, under 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

The Applicants have amended independent claims 1 and 7 to clarify each, and respectfully request the withdrawal of the rejection under 35 U.S.C. 112 of independent claims 1 and 7, from which claims 2-6 and 8-13 depend. The Applicants respectfully request the withdrawal of the rejection of dependent claims 2-6 and 8-13 for the same reasons.

Rejections of the Claims under 35 U.S.C. 103

The Examiner has rejected claims 1-13 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Publication No. 2005/0019945, issued to Groll et al. (hereinafter Groll) in view of U.S. Patent No. 6,765,555, issued to Wu et al. (hereinafter Wu). Specifically, regarding claims 1 and 7, the Examiner points to Groll as describing the claimed invention with the exception of the imaging array of pixels. The Examiner points to Wu as describing a sensor array, purportedly rendering obvious the invention as claimed by the Applicants in claim 1 and method thereof as claimed by the Applicants in claim 7.

In regard to the optical sensor as claimed by the Applicants, the Examiner points to the biosensor 401, and the manufacturing tool 410 for the biosensor 401, of the Groll reference. However, the biosensor 401 of Groll is simply a substrate upon which a number of

contacts/traces are provided which can be linked electrically in various combinations (see Groll Fig. 3) for identification and communication means. Further, the fabrication tool 410 of the Gross reference is simply provided as an exemplary ablation apparatus for the manufacturing of the biosensor 401 (see Groll paragraph 58). However, neither the biosensor 401 or the exemplary ablation apparatus 410 for its manufacture constitute an optical light sensor with an imaging array of pixels as claimed by the Applicants in claim 1, or a method of use thereof as claimed by the Applicants in claim 7.

The Groll reference itself describes a system and method wherein the biosensor 401 includes a number of electrical traces and contacts which communicate with a reader via contact pads. Electrical contact between the pads of the biosensor and reader are described as providing the sole communication. There is no description in the Groll reference of an optical sensor or even optical communication between the biosensor and reader.

The Examiner points to the laser light 412 of the manufacturing ablation apparatus 410 as describing the light source as claimed by the Applicants in claim 1. However, as noted above, the ablation apparatus 410 is provided for constructing the biosensor 401 including its many electrical traces and contacts upon a substrate. That is, the laser light 412 of the Groll reference is used to etch/fabricate the substrate as exposed by the masking, and not to provide a light reflection for optical communication. Further, the laser light 412 would not serve this purpose even if chosen to do so. As such, the ablation laser light 412 does not constitute a light source as claimed by the Applicants in claim 1, or a method of use thereof as claimed by the Applicants in claim 7.

Further, the Examiner points to the steps 100 and 110 as describing the channel configured to receive and guide the test strip as claimed by the Applicants in claim 1. However, steps 100 and 110, and Groll Fig. 8, simply describe the insertion and withdrawal of a strip. There is no description of the configuration of the apparatus of the reading device with which the steps are performed. Specifically, there is no description of a channel for receiving and guiding a test strip as claimed by the Applicants in claim 1, or a method of use thereof as claimed by the Applicants in claim 7.

Still further, the Examiner points to Groll paragraph 82 as describing a test strip comprising optically detected information as claimed by the Applicants in claim 1. However, the system and method of Groll is limited to communication via electrical contact between a biosensor and reader. Paragraph 82 of Groll simply describes a feature of Groll in which contact trace and connection information of the biosensor when inserted can be used to indicate that a function of the reader should be turned on/off. There is a list of such features that can be activated by such electrical contact between biosensor and reader (see Groll paragraphs 21, 22, 23, 24 and 25, especially step (c) described in each paragraph). Further, the biosensor 401 is described as encoding data using electrical contacts only (that is, electrically detected information only). There is no description in Groll of optically encoded data on the biosensor 401. The use of lasers with the biosensor 401 is limited to fabrication of the contacts only. There is no description of optical communication or a test strip comprising optically detected information as claimed by the Applicants in claim 1, or a method of use thereof as claimed by the Applicants in claim 7.

Still further, the Examiner points to the ablation apparatus of Groll as describing a lens positioned to focus light reflected from the test strip as claimed by the Applicants in claim 1. However, the Examiner notes that it is the mask pattern in the ablation apparatus of Groll that reflects some of the light, in contrast to the reflection of light by the test strip, as claimed by the Applicants. Further, the single lens 416 of the ablation apparatus of Groll is provided to shape the laser 412 light onto the biosensor 401 for fabrication, and is not described as serving any function in regard to light reflected back from the biosensor 410 if in fact any light is reflected back from the biosensor 410. There is no description of a lens to focus light reflected back from the test strip as claimed by the Applicants in claim 1, or a method of use thereof as claimed by the Applicants in claim 7.

Still further, as described above, the Groll reference does not describe an optical sensor or an optically encoded test strip. Accordingly, Groll does not describe a processing device for use with each as claimed by the Applicants in claim 1. There is no description of a processing device connected to the optical sensor for determining optically encoded

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information on the test strip as claimed by the Applicants in claim 1, or a method of use thereof as claimed by the Applicants in claim 7.

The Examiner points to Wu as describing a passive optical mouse including a sensor array having a plurality of individual pixels arranged in a two-dimensional array as claimed by the Applicants in claim 1. However, neither the Groll or Wu references, alone or in combination, describe each element of Applicants' claim 1 and method of use thereof of Applicants' claim 7. More specifically, as described above, neither the Groll or Wu references, alone or in combination, describe an optical sensor, light source, channel, lens and processing device as claimed by the Applicants in claim 1, and a method of use thereof as claimed by the Applicants in claim 7.

Accordingly, as the Groll and Wu references do not describe or reasonably suggest each element of Applicants independent claims 1 and 7, the Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. 103(a) of independent claims 1 and 7.

Regarding the remaining dependent claims 2-6 and 8-13, the Applicants assert that the Groll and Wu references do not disclose or reasonably suggest each element as claimed by the Applicants in independent claims 1 and 7, from which claims 2-6 and 8-13 depend. Accordingly, the Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. 103(a) of the remaining dependent claims 2-6 and 8-13 for the same reasons.

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Conclusion

In view of the above, it is believed that the application is in condition for allowance and notice to this effect is respectfully requested. Should the Examiner have any questions, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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